

GERON LEGAL ADVISORS LLC
Yann Geron
Nicole N. Santucci
370 Lexington Avenue, Suite 1101
New York, New York 10017
(646) 560-3224

Presentment Date: September 1, 2023

Presentment Time: 12:00 noon

Objection Deadline: August 31, 2023

Attorneys for Attorneys for Yann Geron, Chapter 7 Trustee

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

-----X		
In re	:	Chapter 7
	:	
SYMBIONT.IO, LLC,	:	Case No. 22-11620-pb
	:	
Debtor.	:	
-----X		

**NOTICE OF PRESENTMENT OF ORDER DESIGNATING
MARK SMITH AS THE PERSON RESPONSIBLE TO PERFORM
DEBTOR'S DUTIES UNDER THE BANKRUPTCY CODE**

TO MARK SMITH, THE DEBTOR'S COUNSEL, AND THE OFFICE OF THE UNITED STATES TRUSTEE:

PLEASE TAKE NOTICE that upon the application, dated August 18, 2023 (the "Application"), of Yann Geron (the "Trustee"), as chapter 7 trustee of the estate of Symbiont.io, LLC (the "Debtor"), the above-captioned debtor, seeking an order, pursuant to Rule 9001(5) of the Federal Rules of Bankruptcy Procedure, designating Mark Smith as the person responsible to perform the Debtor's duties enumerated under 11 U.S.C. § 521, the undersigned will present the annexed order (the "Order") on the **1st day of September, 2023, at 12:00 noon** (the "Presentment Date"), to the Honorable Philip Bentley, United States Bankruptcy Judge, in chambers, United States Bankruptcy Court, One Bowling Green, New York, New York 10004.

PLEASE TAKE FURTHER NOTICE that in light of the COVID-19 pandemic and the Court's General Order M-543 ("General Order M-543") dated March 20, 2020, the Hearing will be conducted telephonically. Parties wishing to participate in the Hearing must make arrangements through CourtSolutions LLC. Instructions about how to register with CourtSolutions LLC are attached to General Order M-543.

PLEASE TAKE FURTHER NOTICE that objections, if any, to the proposed Order shall be made in writing, filed with the Court electronically in accordance with General Order M-399 by registered users of the Court's electronic case filing system and, by all other parties in interest, mailed to the Clerk of the United States Bankruptcy Court, One Bowling Green, New York, New York 10004, on a compact disc, in text searchable Portable Document Format (PDF) (with a hard copy delivered directly to the Chambers of the Honorable Philip Bentley, United States Bankruptcy Judge, United States Bankruptcy Court, One Bowling Green, New York, New York 10004), and served in accordance with General Order M-399 or other form upon: (i) Geron Legal Advisors LLC, 370 Lexington Avenue, Suite 1101, New York, New York 10017 Attn: Yann Geron, Esq. and Nicole N. Santucci, Esq.; and (ii) Office of the United States Trustee, U.S. Federal Office Building, 201 Varick Street, Room 1006, New York, New York 10014, Attn: Annie Wells, Esq., so as to be actually received no later than one day prior to the Presentment Date. The ECF docket number to which the filing relates must be included in the upper right-hand corner of the caption of all objections. Unless timely objections are filed, the Order may be signed without a hearing.

PLEASE TAKE FURTHER NOTICE that if timely objections are filed and served, or if the Court so directs, a hearing will be held before the Honorable Philip Bentley, United States Bankruptcy Judge, at a date to be scheduled by the Court, upon such additional notice as the Court may direct.

Dated: New York, New York
August 18, 2023

GERON LEGAL ADVISORS LLC
Attorneys for Yann Geron, Chapter 7 Trustee

By: s/ Yann Geron

Yann Geron
Nicole N. Santucci
370 Lexington Avenue, Suite 1101
New York, New York 10017
(646) 560-3224

GERON LEGAL ADVISORS LLC
Yann Geron
Nicole N. Santucci
370 Lexington Avenue, Suite 1101
New York, New York 10017
(646) 560-3224

Presentment Date: August __, 2023

Presentment Time: 12:00 noon

Objection Deadline: August __, 2023

Attorneys for Attorneys for Yann Geron, Chapter 7 Trustee

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

-----X	
In re	: Chapter 7
	:
SYMBIONT.IO, LLC,	: Case No. 22-11620-pb
	:
Debtor.	:
-----X	

**TRUSTEE’S APPLICATION FOR AN ORDER DESIGNATING
MARK SMIT AS THE PERSON RESPONSIBLE TO
PERFORM THE DEBTOR’S DUTIES UNDER THE BANKRUPTCY CODE**

TO THE HONORABLE PHILIP BENTLEY,
UNITED STATES BANKRUPTCY JUDGE:

Yann Geron (the “Trustee”), as chapter 7 trustee of the estate of Symbiont.io, LLC (the “Debtor”), the above-captioned debtor, by his attorneys, Geron Legal Advisors LLC, as and for his application (the “Application”) seeking an order, pursuant to Rule 9001(5) of the Federal Rules of Bankruptcy Procedure (the “Bankruptcy Rules”), designating Mark Smith as the person responsible to perform the Debtor’s duties enumerated in 11 U.S.C. § 521 (the “Bankruptcy Code”), respectfully sets forth and represents as follows:

Introduction

1. On December 1, 2022, the Debtor filed a voluntary petition for relief under chapter 11 of Title 11 of the United States Code (the “Bankruptcy Code”) in the United States Bankruptcy Court for the Southern District of New York (the “Court”) [DE 1].

2. On June 6, 2023 (the “Conversion Date”), upon motion of the United States Trustee, the Debtor’s case was converted to a case under chapter 7 of the Bankruptcy Code. On June 7, 2023, Yann Geron was appointed interim chapter 7 trustee of the Debtor’s estate and is currently serving in that capacity.

3. The Debtor is a Delaware limited liability company. Upon information and belief, prior to the Conversion Date, the Debtor was the market-leading smart contracts platform for institutional applications of blockchain technology, developing products in smart contracts and distributed ledgers for use in capital markets. The Debtor worked with its clients to build and run decentralized applications involving the blockchain, called “smart contracts,” that permitted financial institutions to use the block chain to create more robust and secure golden records of its financial transactions.

4. As part of the general administration of this bankruptcy estate, the Trustee requires basic documents and information relating to the Debtor, its operations, and assets. The Trustee will also need to conduct an investigation into the Debtor’s pre-petition financial affairs. He requires Mark Smith’s cooperation in order to do so.

Relief Requested

5. By this Application, the Trustee seeks an order appointing Mark Smith as the person responsible for performing the Debtor’s duties in this case. The Trustee was compelled to file this Application because the Debtor failed to appear for its initial meeting of creditors which was scheduled for August 7, 2023. Additionally, the Debtor has not yet filed its (i) a schedule of unpaid debts incurred after the commencement of the chapter 11 case, including the name and address of each holder of a claim, and (ii) final report and account, as required by the conversion order.

6. Specifically, the Trustee seeks, among other things, entry of an order requiring Mark Smith to be directly responsible for: (i) generally performing the Debtor's duties as enumerated in Section 521 of the Bankruptcy Code; (ii) filing the schedule of chapter 11 unpaid debts and its file report and account; (iii) cooperating with the Trustee and his professionals regarding the administration of the Debtor's estate; (iv) coordinating the turnover of estate property and the Debtor's books and records and other required documents and information; and (v) attending and participating in the meeting of creditors, currently scheduled for September 15, 2023, at 11:30 a.m., and any subsequent adjournments until such meeting is closed.

7. Such an order is appropriate under the circumstances and will clearly define the obligations of Mark Smith with respect to the Debtor's estate. In the event that Mr. Smith fails to cooperate and perform the Debtor's duties under the Bankruptcy Code, the Trustee will be empowered to seek this Court's assistance in enforcing the order.

8. Bankruptcy Rule 9001(5) provides, in relevant part, that:

"Debtor." When any act is required by these rules to be performed by a debtor or when it is necessary to compel attendance of a debtor for examination and the debtor is not a natural person: (A) if the debtor is a corporation, "debtor" includes, if designated by the court, any or all of its officers, members of its board of directors or trustees or of a similar controlling body, a controlling stockholder or member, or any other person in control....

See Bankruptcy Rule 9001(5).

9. Section 521(a) of the Bankruptcy Code provides, in relevant part, that a debtor shall:

(3) if a trustee is serving in the case...cooperate with the trustee as necessary to enable the trustee to perform the trustee's duties under this title; and

(4) if a trustee is serving in the case...surrender to the trustee all property of the estate and any recorded information,

including books, documents, records, and papers, relating to property of the estate....

See 11 U.S.C. § 521.

10. The basis for the Trustee requesting that Mark Smith be designated a responsible person in this case is that Mr. Smith is the CEO of the Debtor, and, thus, is an officer of the Debtor as prescribed under Bankruptcy Rule 9001(5). Additionally, Mr. Smith signed the bankruptcy petition on behalf of the Debtor.

11. Based upon the foregoing, the Trustee submits that this Court should enter an order, pursuant to Bankruptcy Rule 9001(5), designating Mark Smith as the person responsible to perform the Debtor's duties in this case.

Notice and Procedure

12. Notice of this Application has been given by first-class mail, to Mark Smith, the Debtor's counsel, and to the Office of the United States Trustee. The Trustee respectfully submits that such notice is sufficient, and requests that this Court find that no further notice of the relief requested herein is necessary or appropriate.

13. This Application includes citations to the applicable rules and statutory authorities upon which the relief requested is predicated. Accordingly, the Trustee respectfully submits that this Application satisfies the requirements of Local Bankruptcy Rule 9013-1(a).

No Prior Application

14. No previous request for the relief sought herein has been made to this or any other Court.

WHEREFORE, the Trustee respectfully requests that this Court enter an order, in substantially the same form annexed hereto as Exhibit A, designating Mark Smith as the person responsible for performing the Debtor's duties under Section 521 of the Bankruptcy Code, and granting the Trustee such other and further relief as is just.

Dated: New York, New York
August __, 2023

GERON LEGAL ADVISORS LLC
Attorneys for Yann Geron, Chapter 7 Trustee

By: _____

Yann Geron
Nicole N. Santucci
370 Lexington Avenue, Suite 1101
New York, New York 10017
(646) 560-3224